



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 210505-0100]

RTID 0648-XX065

Fisheries of the Northeastern United States; Atlantic Surfclam and Ocean Quahog Fisheries; Final 2021 and Projected 2022-2026 Fishing Quotas

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce

ACTION: Final rule.

SUMMARY: This final rule implements status quo commercial quotas for the Atlantic surfclam and ocean quahog fisheries for 2021 and projected status quo quotas for 2022-2026. This action is necessary to establish allowable harvest levels of Atlantic surfclams and ocean quahogs that will prevent overfishing and allow harvesting of optimum yield. This action also continues to suspend the minimum shell size for Atlantic surfclams for the 2021 fishing year. The intended effect of this action is to provide benefit to the industry from stable quotas to maintain a consistent market.

DATES: This rule is effective [*Insert date 30 days from publication in the FEDERAL REGISTER*], through December 31, 2021.

ADDRESSES: Copies of the environmental assessment (EA) are available on request from Dr. Christopher M. Moore, Executive Director, Mid-Atlantic Fishery Management Council, Suite 201, 800 North State Street, Dover, DE 19901. These documents are also accessible via the Internet at <http://www.mafmc.org>.

FOR FURTHER INFORMATION CONTACT: Laura Hansen, Fishery Management Specialist, 978-281-9225.

SUPPLEMENTARY INFORMATION: In August 2020, the Mid-Atlantic Fishery Management Council voted to maintain status quo quota levels of 5.36 million bushels (bu) (285 million liters (L)) for the ocean quahog fishery, 3.40 million bu (181 million L) for the Atlantic surfclam fishery, and 100,000 Maine bu (3.52 million L) for the Maine ocean quahog fishery for 2021-2026. The Council recommended that specifications be set for 2021 and proposed for years 2022-2026 to create administrative efficiencies as a result of the new stock assessment process, which is expected to assess surfclam and ocean quahog on a 4- and 6-year cycle, respectively. On February 17, 2021, NMFS published a proposed rule (86 FR 9901) soliciting public comment on the proposed specifications with a comment period through March 4, 2021. Four comments were received and are discussed below. Additional detail on the Council’s recommendations and background on the surfclam and ocean quahog specifications are provided in the proposed rule and not repeated here.

2021 and Projected 2022-2026 Specifications

Final 2021 and projected quotas for the 2022-2026 Atlantic surfclam and ocean quahog fishery are shown in Tables 1 and 2.

Table 1 -- Atlantic Surfclam Measures 2021-2026 (2022-2026 Projected)

Atlantic Surfclam				
Year	Allowable Biological Catch	Annual Catch Limit	Annual Catch Target	Commercial Quota
2021	47,919 mt	47,919 mt	29,363 mt	3.4 million bushels (181 million L)
2022	44,522 mt	44,522 mt	29,363 mt	3.4 million bushels (181 million L)
2023	42,237 mt	42,237 mt	29,363 mt	3.4 million bushels (181 million L)
2024	40,946 mt	40,946 mt	29,363 mt	3.4 million bushels (181 million L)
2025	40,345 mt	40,345 mt	29,363 mt	3.4 million bushels (181 million L)
2026	40,264 mt	40,264 mt	29,363 mt	3.4 million bushels (181 million L)

Table 2 -- Ocean Quahog Measures 2021-2026 (2022-2026 Projected)

Ocean Quahog				
Year	Allowable Biological Catch	Annual Catch Limit	Annual Catch Target	Commercial Quota
2021	44,031 mt	44,031 mt	25,924 mt	Maine quota: 100,000 Maine bu (3.52 million L) Non-Maine quota: 5.36 million bu (285 million L)
2022	44,072 mt	44,072 mt	25,924 mt	Maine quota: 100,000 Maine bu (3.52 million L) Non-Maine quota: 5.36 million bu (285 million L)
2023	44,082 mt	44,082 mt	25,924 mt	Maine quota: 100,000 Maine bu (3.52 million L) Non-Maine quota: 5.36 million bu (285 million L)
2024	44,065 mt	44,065 mt	25,924 mt	Maine quota: 100,000 Maine bu (3.52 million L) Non-Maine quota: 5.36 million bu (285 million L)
2025	44,020 mt	44,020 mt	25,924 mt	Maine quota: 100,000 Maine bu (3.52 million L) Non-Maine quota: 5.36 million bu (285 million L)
2026	43,948 mt	43,948 mt	25,924 mt	Maine quota: 100,000 Maine bu (3.52 million L) Non-Maine quota: 5.36 million bu (285 million L)

The Atlantic surfclam and ocean quahog quotas are specified in “industry” bushels of 1.88 cubic feet (ft³) (53.24 L) per bushel, while the Maine ocean quahog quota is specified in Maine bushels of 1.24 ft³ (35.24 L) per bushel. Because Maine ocean quahogs are the same species as ocean quahogs, both fisheries are assessed under the same overfishing definition. When the two quota amounts (ocean quahog and Maine ocean quahog) are added, the total allowable harvest is below the level that would result in overfishing for the entire stock. The 2021-2026 quotas are the same as those implemented in the 2018-2020 specifications.

Surfclam

The 2021-2026 surfclam quotas were developed after reviewing the results of the management track stock assessment for Atlantic surfclam, conducted in June 2020. The surfclam quota recommendation is consistent with the assessment finding that the Atlantic surfclam stock is not overfished and overfishing is not occurring. This rule

maintains the status quo surfclam quota of 3.40 million bu (181 million L) for 2021 and projects the same quota for 2022-2026 (see Table 1).

Ocean Quahog

As with surfclams, the 2021-2026 ocean quahog quotas were developed after reviewing the results of the management track stock assessment for ocean quahogs, conducted in June 2020. The ocean quahog quota is consistent with the assessment finding that the ocean quahog stock is not overfished and overfishing is not occurring. This rule maintains the status quo quota of 5.36 million bu (285 million L) and status quo level of 100,000 Maine bu (3.52 million L), which represents the maximum allowable quota under the Fishery Management Plan (FMP) and projects the same quotas for 2022-2026 (see Table 2).

Surfclam Minimum Size

In August 2020, the Council voted to recommend that the minimum size limit for surfclams continue to be suspended for 2021-2026. The minimum size limit has been suspended annually since 2005. Minimum size suspension may not be taken unless discard, catch, and biological sampling data indicate that no more than 30 percent of the Atlantic surfclam resource have a shell length less than 4.75 inches (120 millimeters (mm)), and the overall reduced size is not attributable to harvest from beds where growth of the individual clams has been reduced because of density-dependent factors. We will review the available data annually to determine if the necessary conditions have been met to suspend the minimum size.

Commercial surfclam data for 2020 were analyzed to determine the percentage of surfclams that were smaller than the minimum size requirement. The analysis indicated that 11 percent of the overall commercial landings, to date, were composed of surfclams that were less than the 4.75-inch (120-mm) default minimum size. Based on the information available, the Regional Administrator concurs with the Council's

recommendation, and is suspending the minimum size limit for Atlantic surfclams in the upcoming fishing year (January 1 through December 31, 2021).

Comments

On February 17, 2021, we published a proposed rule (86 FR 9901) soliciting public comment on the proposed specifications. We received four comments during the 15-day public comment period that closed on March 4, 2021. Two commenters from the public and one comment from industry were in support of the specifications. One commenter was against the specifications, stating that quotas should be cut by 50 percent since overfishing is occurring, however, overfishing is not occurring and the fishery is not overfished. No changes to the proposed specifications were made in response to the comments.

Classification

Pursuant to section 304(b)(3) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this final rule is consistent with the Atlantic Surfclam and Ocean Quahog FMP, other provisions of the Magnuson-Stevens Act, and other applicable law.

The Council prepared an EA for this FMP, and the NMFS Assistant Administrator concluded that there will be no significant impact on the human environment as a result of this rule. The management measures are status quo from the 2018-2020 specifications. A copy of the EA is available from the Council (see

ADDRESSES).

This final rule is exempt from review under Executive Order 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the

proposed rule and is not repeated here. No comments were received regarding this certification. As a result, a regulatory flexibility analysis was not required and none was prepared.

This rule contains no information collection requirements under the Paperwork Reduction Act of 1995.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: May 6, 2021.

Samuel D. Rauch III,
Deputy Assistant Administrator for Regulatory Programs,
National Marine Fisheries Service.

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